

## **REMARKS/ARGUMENTS**

### **STATUS OF CLAIMS**

In response to the Office Action dated July 25, 2008, claims 1, 2, 4, 6, 8 and 10 have been amended. Claims 1-10 are now pending in this application. No new matter has been added.

The indication that claims 6, 7 and 9 are allowable, and that claims 2-4, 8 and 10 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims and overcoming the rejections under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. § 101, is acknowledged and appreciated.

### **OBJECTION TO DRAWINGS**

The drawings have been objected to as reference character 72 (Figs. 5 and 6) has not been mentioned in the written description.

By this Response, paragraph [0059] has been amended to refer to “a shaping iron 72”. Therefore, withdrawal of the objection to the drawings is respectfully solicited.

### **CLAIM OBJECTIONS**

Claims 2, 4, 6 and 8 have been objected to. The Examiner identifies phrases that lack clear antecedent basis.

By this response, claims 2, 4, 6 and 8 have been amended as suggested by the Examiner, to change “the” to “a” at appropriate places. However, since claims 2 and 6 now recited “a distal end opening face”, claims 4 and 8 have been further amended to recite “the distal end opening face”.

The amendments are non-narrowing claim amendments.

In view of the amendments to claims 2, 4, 6 and 8, withdrawal of the objection to claims 2, 4, 6 and 8 is respectfully solicited.

#### **REJECTION OF CLAIMS UNDER 35 U.S.C. § 101**

Claims 1-5 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner maintains that “the aorta” cannot be claimed as it is part of the human body.

By this response, claim 1 has been amended to delineate, *inter alia*:

a balloon part ***adapted to be*** inserted inside the aorta...

This change has been suggested by the Examiner (see last sentence of item 10 on page 4 of the Office Action). Therefore, withdrawal of the objection to claims 1-5 is respectfully solicited.

#### **REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 2, 4, 8 and 10 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

**I.** Regarding claim 2, the Examiner questions whether “engagement hole” and “cut piece” are part of the engagement means or separate features.

By this Response, claim 1 has been amended to delineate:

the engagement means includes an engagement hole formed at the distal end of the outer tube, and  
said inner tube is inserted in said engagement hole for engagement with the inside wall of said outer tube.

Claim 2 has been amended for consistency with amended claim 1.

Thus, amended claims 1 and 2 clearly delineate that the engagement hole and cut piece are part of the engagement means.

**II.** Regarding claims 4 and 8, the Examiner questions whether “a distal end opening face” is the same as that in claims 2 and 6.

Since this is the same distal end opening face, as noted above, claims 4 and 8 have been further amended to recite “the distal end opening face”.

**III.** Regarding claim 10, the Examiner notes that no steps have been recited to support the claimed “intra-aortic balloon pumping method”.

By this Response, claim 10 has been amended to delineate:

A method of assisting heart function, comprising:  
carrying out intra-aortic balloon pumping with the balloon catheter of claim 6 including:  
inserting the balloon part inside the aorta; and  
inflating and deflating the balloon part.

Thus, the method of assisting heart function is limited to carrying out intra-aortic balloon pumping with the balloon catheter of claim 6 and includes inserting the balloon part inside the aorta, and inflating and deflating the balloon part.

IV. In view of the above, withdrawal of the objection to claims 2, 4, 8 and 10 is respectfully solicited.

**REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103**

I. Claim 1 has have been rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Miyata et al. (USPN 5,711,754).

To expedite prosecution, independent claim 1 has been amended, as noted above, and delineate, *inter alia*:

...  
the engagement means includes an engagement hole formed at the distal end of the outer tube, and  
said inner tube is inserted in said engagement hole for engagement with the inside wall of said outer tube.

This subject matter is supported by the description at paragraphs [0005], [0006], [0013] and [0015] of the present application.

Claim 2 has been amended for consistency with amended independent claim 1.

Miyata et al. does not disclose or suggest an engagement means includes an engagement hole formed at the distal end of the outer tube, and the inner tube is inserted in the engagement

hole for engagement with the inside wall of the outer tube. Therefore, amended independent claim 1 is patentable over Miyata et al.

**II.** Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyata et al. in view of Schock (USPN 6,830,559).

Claim 5 depends directly from amended independent claim 1 and Schock does not remedy the above-noted deficiency of Miyata et al. with respect to amended independent claim 1. Therefore, claim 5 is patentable over Miyata et al. and Schock.

**III.** In view of the above, the allowance of claims 1-5, as amended, is respectfully solicited.

## **CONCLUSION**

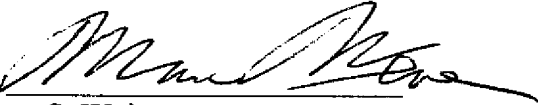
In view of the above, Applicants believe the pending claims are in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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